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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,617	09/20/2000	John A. Macoviak	49060	5687

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EXAMINER

STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 04/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/666,617

Applicant(s)
MACOVIAK

Examiner
Alvin Stewart

Art Unit
3738



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 28, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above, claim(s) 7, 16, and 25-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-15, 23, and 24 is/are rejected.
- 7) ☒ Claim(s) 17-22 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Art Unit: 3738

DETAILED ACTION

Group I is referring to claims 1-6, 8-15, and 17-24 drawn to heart valves.

Group II is referring to claims 7, 16 and 25-49 drawn to deployment tools.

Applicant's election of Group I, Species I in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 7, 16-22, 25-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group and/or Species, there being no allowable generic or linking claim. Election was made traverse in Paper No. 5.

Independent claims 1, 8 do not read on Species II and III because the rings are not spaced apart as shown in Figs. 2-4.

Claims 1-6, 8-15, 23 and 24 have been examined.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4, 8-15, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3738

Claim 2 recites the limitation "the proximal end" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the proximal side" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 it is not well understood.

Claim 3 recites the limitation "said retainers" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "said retainers" in 3. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 8, line 3, the words "with one shiftable..." are not clear. Correction is required.

Claim 13 recites the limitation "said coupler" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 3738

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Vazquez et al US Patent 6,287,339B1.

Vazquez et al discloses an anchor device (66) comprising an upper ring (170), a retainer (mid-portion of the heart valve, see Fig. 16) and a lower ring (172). The two ring shift relative to one another from a deployed position to a retainer deployed position.

Claims 1-5, 8, 9, 14, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiley US Patent 3,686,740.

Shiley discloses an anchor device comprising an inner ring (127), a retainer (115) and an outer ring (111). The two ring shift relative to one another from a deployed position to a retainer deployed position. The rings are concentric with one another and rotate relative to one another. The outer ring has a plurality of windows (125) and the inner ring has a plurality of resilient fingers (13). See Figs. 5-11.

Allowable Subject Matter

Claims 17-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3738

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Alvin Stewart whose telephone number is (703) 305-0277. The examiner can normally be reached on Monday-Friday from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703)308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Alvin Stewart

April 11, 2002.



**CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**